IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1993 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SURESHGAR SHYAMGAR GOSWAMI

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 1993 of 2002

MR MRUGEN K PUROHIT for Petitioner No. 1-19

Mr. K.S. Nanavati, Sr. Counsel for

NANAVATI ASSOCIATES for Respondent No. 3-4

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CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision:03/05/2002

ORAL JUDGEMENT

The weird and extra-ordinary question thrown up in this petition under Article 226 is "whether the group

of 19 would be appointee - petitioners should be entitled to pre-appointment backwages?"

2. The group of 19 petitioners are some of the land-losers, the loss of land having been occasioned by compulsory acquisition of their lands for the purpose of the industry of respondent No.3. At the time of acquisition and taking over of possession of the lands of the petitioners, a certificate was issued recording the understanding, inter-alia, that the land-losers wanted to nominate a person named therein for being granted employment or self-employment by the respondent company, who would be given employment or self-eployment. It further recorded that such employment or self-employment would be given in any of the group companies of the respondent in accordance with the order prescribed therein. However, no time limit appears to have been prescribed for giving appointment or self-employment. The local officers of the Revenue authorities appeares to have signed the said certificate only as witnesses.

3. It appears that in November, 2001, the company started issuing appointment orders. The appointment orders appointing the petitioners were initially for a period of one year on probation and subject to various other conditions. Before that the company had also offered in May, 2001 a Scheme of Fixed Deposit of Rs. 3 lakh in favour of the land-losers holding such certificates as the petitioners.

4. It appears that the petitioners were not satisfied with any of the above options. Their objections were, inter-alia, that employment was not being given in the main company, that it ought to have been offered on permanent basis from the very out-set, that the salary offered was much less and that they had apprehensions about early removal from service. Agitating those grievances in the petition also, the petitioners have claimed backwages from the date of acquisition of the lands till giving of employment by the respondents.

5. The learned Senior Counsel Shri K.S. Nanavati appearing for the respondent Nos. 3 and 4 submitted and made a statement that irrespective of the maintainability or merits of the petition, the respondents Nos. 3 and 4 were prepared to abide by the conditions contained in the certificate on which the claims of the petitioners are based. He also stated that the offer of employment as made by and on behalf of the respondents concerned shall remain open for the petitioners upto 31.5.2002 and the

petitioners shall be at liberty to report for duty upto that date in terms of the appointment orders issued to them. He further stated that the offer of money in the form of Fixed Deposit increased by Rs. 50,000/- to cover even the interest accrued thereon, shall also be kept open for the petitioners upto 31.5.2002. He clarified that these offers and statement are made without prejudice to the rights and contentions of the petitioners with a view to finally settle the matter and avoid unnecessary litigation.

6. On merits, the petition is liable to be summarily dismissed on the grounds that it is entirely based upon a document which could, at best, be called a private agreement, giving rise to a private dispute amongst the parties for which a writ petition is not the appropriate remedy. The respondent Nos. 1 and 2 are the State authorities who are in no way concerned with the dispute and in no way obliged to supervise the transaction between the petitioners and the respondents concerned as prayed in the petition. Thus, the petition deserves to be dismissed on the ground of the contesting respondent not being even alleged to be State or other authority within the meaning of Article 12 of the Constitution and the petitioners having efficacious and more appropriate alternative remedy where all issues of facts can also be agitated. Therefore, recording the statement made on behalf of the contesting respondents Nos. 3 and 4, the petition is dismissed in limine with no order as to costs.

(D.H.Waghela, J.)

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